A Working Woman's Guide To Her Job Rights

U.S. Department of Labor
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Leaflet 55

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U.S. Department of Labor
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Foreword

Federal laws that protect employment rights apply to both women and men. This leaflet is directed specifically to women because women's legal rights related to jobs and jobseeking have changed considerably in the past two decades, and many women are still unaware of protections and services provided under Federal law.

This working woman's guide presents general information about Federal legislation that affects women's rights when they are seeking a job, while on the job, and when they retire. Many States offer similar, and sometimes broader, protections or wider coverage than the Federal law, and some areas of employment are governed exclusively by State law. Information about State employment laws is available from State departments of labor or departments of human resources.

Women now constitute 44 percent of the Nation's labor force, and nearly 56 percent of all women 16 years of age and older are working or seeking work. The majority of women work because of economic need. Yet they continue to constitute large proportions of workers in traditionally female occupations. And the wages of an occupation decrease as the percentages of women in it increase.

Many women are not aware of such legal job rights as equal access to all jobs for which they qualify and equal treatment on the job. We hope that by providing information about their legal job rights we will help women gain full equal employment opportunity.

Shirley M. Dennis
Director, Women's Bureau

How Women Can Assert Their Job Rights

The first step in asserting your legal rights is to know what those rights are. It is important to know which practices are prohibited by law, and to distinguish these from actions which may seem unjust, but which are not unlawful.

You should also keep in mind that an employer can take action against an employee for good cause. Laws that protect against discrimination based on race, color, sex, national origin, religion, age, or handicap do not prevent an employer from discharging you if you are not doing your job; nor do they require employers to hire you if you are not qualified for the job.

You can resolve many problems associated with getting a job or coping with a particular job situation through discussion with personnel officers or supervisors. Informal problem solving is frequently the quickest method for settling a dispute; often the problem arises because of misunderstanding, lack of communication, or ignorance of the employee's rights. In many work establishments, informal conciliation is part of grievance procedures under collective bargaining agreements, personnel policies, or formal equal employment opportunity programs.

However, if you believe that you are being paid less than a legal wage, or are the victim of discrimination prohibited by law, you are entitled to file a complaint with the agency that has responsibility for enforcing the law. Procedures for making complaints vary; a telephone request is enough to set in motion an investigation into sub-

standard wages or unequal pay, whereas a written complaint is necessary under some antidiscrimination laws.

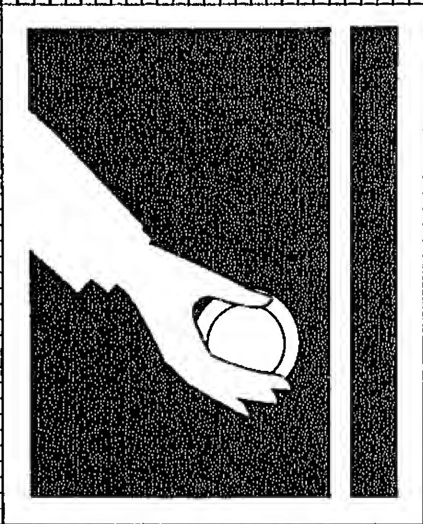
If you feel that you are being treated unfairly, take care to document incidents to support a complaint. Written notes on what happened and when, and who was there, are very useful in refreshing the memory and showing a pattern of unfair treatment.

There are time limits on filing complaints, so it is important to act promptly. Information about time limits and procedures under the various laws is provided with each section of the guide. If you are unsure about how the law might apply to a specific situation, call the agency that handles those complaints to talk with compliance officers who are trained to provide information about filing complaints. Sample forms are included in Appendix C.

Addresses or telephone numbers of compliance agencies as well as agencies which administer laws on retirement or disability, for example, are listed in Appendix A.

In addition, most agencies with enforcement or administrative responsibilities for Federal laws print pamphlets with information for consumers. Free copies of these materials are generally available from the agency upon request. Additional sources of assistance and information exist in the form of community based organizations that have information and referral, counseling, or legal assistance services. The local bar association, a State or local commission on women, or an information and referral center may be able to provide information about these resources.

Getting the Job



A number of Federal laws provide for services to assist jobseekers and protect workers from policies and practices which discriminate on the basis of sex, race, color, religion, or national origin. Similar laws at the State level increase the scope of coverage, complement it, or operate in partnership with Federal legislation.

Employment Services

The United States Employment Service operates in partnership with State employment services to provide free counseling, testing, and job placement in major cities across the country. Established under the Wagner-Peyser Act, the State-operated employment service—called Job Service in most States—forms a national network of public employment offices that follow Federal guidelines. Many of these offices have job banks which maintain computerized listings of job vacancies in the particular geographic area, so jobseekers can match their skills to available jobs. Through screening and referral services, the Job Service also channels applicants into various training programs.

Job Service or Employment Service offices are listed in the telephone directory under State government listings. In most States they are part of the department of labor or human resources, or a separate employment security agency.

Training and Education

Apprenticeship. The national apprenticeship system is a Federal-State partnership established by the National Apprenticeship Act to encourage high standards for apprenticeship training and to promote

the apprenticeship concept among business and industry. Apprenticeship is a system for teaching skilled trades and crafts through a combination of on-the-job training and classroom instruction. National standards approved by the Bureau of Apprenticeship and Training or State apprenticeship agencies govern the scope of work, courses of instruction, length of training, and amount of pay. A great advantage to apprenticeship training is that apprentices are paid while they learn. Typically an entering apprentice earns about half of the wage rate of a highly skilled fully qualified worker (journeyworker), and receives an increase about every 6 months. Upon completion of the program, the apprentice receives a certificate or card which shows that she or he has become a journeyworker in a specific occupation.

Department of Labor regulations published in May 1978 require sponsors of apprenticeship programs with more than five apprentices to take affirmative action to recruit women, as well as minorities, when these groups do not have a reasonable share of training opportunities.

Some apprenticeship programs bar entrance to persons over a certain age. At least two States—California and New York—prohibit age limits for participation in apprenticeship programs.

A number of States provide information about apprenticeship programs through Apprenticeship Information Centers (AIC's), which are generally operated by the State employment service. The Bureau of Apprenticeship and Training, of the U.S. Department of Labor, State apprenticeship agencies, unions, and employers who operate apprenticeship programs can provide more information about apprenticeship opportunities.

Employment and Training Programs. The Job Training Partnership Act (JTPA) is the major Federal employment and training program in the United States. Enacted in October 1982, it became fully effective October 1, 1983, replacing the Comprehensive Employment and Training Act (CETA). States have primary responsibility for program direction, monitoring, and administration. Local governments and private industry councils have equal authority in planning and implementing job training programs. These programs are designed to assist economically disadvantaged persons (those living at or below the poverty level) and those with serious barriers to employment (i.e., teenage parents and displaced homemakers) to be productive members of the labor force. Program activities include job search assistance, skills training, and on-the-job training.

The State department of labor or human resources, the Job Service, or the local private industry council can provide information on

employment and training opportunities under JTPA.

Vocational Education. Vocational education programs represent another important source of training for a variety of occupations. The legislation that currently authorizes these programs is the Carl D. Perkins Vocational Education Act of 1984. The Perkins Act emphasizes vocational education assistance to women through the creation of two new programs: one to train single parents and homemakers; the other for programs that eliminate sex bias or stereotyping, especially for young women ages 14 to 25. It also establishes an industry-education partnership for training in high technology occupations.

Each State has to designate a sex equity coordinator, who is responsible for administering the two new programs for women, as well as ensuring that State vocational education programs do not discriminate against women and girls. These coordinators, located in the State department of education, have information about programs available in their States.

Federal Protections for Jobseekers

Several Federal laws protect workers from discrimination in the jobseeking process by prohibiting discrimination in recruitment, testing, referrals, and hiring.

Discrimination Based on Sex, Race, Color, Religion, and National Origin. *Title VII of the Civil Rights Act of 1964* is the principal law that protects workers from discrimination in employment. The act makes it unlawful to discriminate on the basis of sex, race, color, religion, or national origin in hiring or firing; wages; fringe benefits; classifying; referring, assigning, or promoting employees; extending or assigning facilities; training; retraining; apprenticeships; or any other terms, conditions, or privileges of employment. For example, it is unlawful for an employer to refuse to let certain persons file application forms, but to accept others; for a union or an employment agency to refuse to refer applicants to job openings; for a union to refuse membership or for an apprenticeship or other training program to refuse admission to an applicant, when the reason for the action is the individual's sex, race, color, religion, or national origin.

The Equal Employment Opportunity Commission (EEOC) has primary responsibility for enforcement of Title VII. Under EEOC guidelines on sex discrimination, it is a violation of Title VII to refuse to hire an individual based on stereotyped characteristics of the sexes or preferences of coworkers, the employer, clients, or customers; to label jobs as "men's jobs" and "women's jobs," or to indicate a preference or limitation based on sex in a help-wanted advertisement,

unless sex is a bona fide occupational qualification (BFOQ) for the job. Sex is rarely a BFOQ. The guidelines also say that State protective labor laws that prohibit or limit the employment of women at certain times or in certain occupations, such as mining or bartending, are in conflict with and are superseded by Title VII, and therefore cannot be used as a reason for refusing to employ women.

As amended in 1972, Title VII covers most employers of 15 or more employees, public and private employment agencies, labor unions with 15 or more members, and joint labor-management committees for apprenticeship and training. Indian tribes are exempt as employers. Religious institutions are exempt with respect to employing persons of a particular religion, but are covered with respect to discrimination based on sex, race, color, or national origin.

What To Do — The EEOC Complaint Process

If you think you have been treated unfairly in an employment situation and the reason for the action was your sex, race, color, religion, or national origin, you may file a complaint or charge with the Equal Employment Opportunity Commission. The complaint form asks for your name and address; the name and address and other information about the employer, union, or employment agency; and a brief description of the discriminatory practice or action. You must file the complaint within 180 days of the action you are complaining about. If there is a State or city fair employment practices (FEP) law offering comparable protection (most States have such FEP laws), the EEOC will send a copy of the complaint to the agency that enforces the State or local law. If the State agency does not complete action on the complaint within 60 days, EEOC may proceed to process the charge. If you send the complaint to the State agency first, the deadline for filing with EEOC is 300 days from the date of the unlawful act, or within 30 days of a notice that the State agency has finished its proceedings, whichever happens first. Some actions may be continuing violations of Title VII, and are not then subject to the usual time limits.

EEOC's enforcement process begins with an interview with an equal opportunity specialist who talks with you about what happened. The EEO specialist then fills out the charge form, provides counseling on legal rights, and explains the EEOC enforcement process. After the charge is filed, EEOC notifies the employer, who is often asked to come to the Commission office to discuss the charge with you and EEOC staff. If a satisfactory settlement cannot be reached, EEOC will investigate the charge further and make a deci-

sion on whether there is reasonable cause to believe that discrimination occurred. If the Commission finds no reasonable cause, it will give you a "right-to-sue" letter which permits you to initiate a private suit, if you want to do so. If reasonable cause is found, and EEOC is not able to reach settlement through conciliation efforts, Commission attorneys review the case again and decide whether the Commission should sue the employer. If they decide against going to court, they issue a right-to-sue letter so you can sue privately. You do not have to wait for this entire process to be completed before you begin a private suit. You may begin your own suit any time after EEOC has had jurisdiction to act on the case for 180 days. However, you must have a right-to-sue letter before any action may be started in court. After getting the right-to-sue letter, you have 90 days to file in court. You should try to secure an attorney before requesting a letter. EEOC will try to help you find a lawyer if you are unable to find one on your own. If a court finds that discrimination occurred, it can order reinstatement or hiring, with or without back pay or anything else it feels is appropriate.

Because time is crucial in the Title VII cases, if you think you have been discriminated against, it is important to contact the EEOC soon after the discriminatory action occurs, to find out if there may be grounds for filing a complaint. You can reach the EEOC at 800 USA-EEOC.

It is also against the law to discriminate against anyone for starting proceedings under Title VII, opposing an illegal practice, or participating in an investigation. A person who is discriminated against in this way may file a complaint or charge.

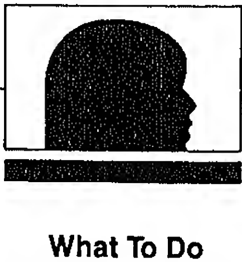
Ida Phillips was refused a job as an assembly trainee because she had pre-school age children. Employment of male trainees was not so restricted. The Supreme Court held that the policy of excluding women with pre-school age children was discriminatory, because the employer had not justified its separate hiring practices for women and men with young children. Phillips v. Martin Marietta Corp., *400 U.S. 592 (1969).*

Executive Order 11246, as amended, prohibits employment discrimination based on sex as well as on race, color, religion, or national origin by Federal service and supply contractors and subcontractors and by contractors which hold a Federal or federally assisted construction contract of $10,000 or more. Coverage currently includes all facilities of the contractor, regardless of whether they are being used in the performance of the Federal contract. In the case of State or local governments holding contracts, except for educational institutions and medical facilities, coverage is limited to the agency participating in the contract.

To ensure nondiscrimination in employment, contractors must take affirmative action in such areas as recruitment or recruitment advertising; hiring, upgrading, demotion, or transfer; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

The Executive order is enforced by the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor. OFCCP sets policy and develops regulations for implementing the Executive order, and checks to see that Federal contractors comply with the regulations. Compliance reviews are the primary mechanism for carrying out the Federal Government's policy to further equal employment opportunity.

OFCCP sex discrimination guidelines provide, among other things, that contractors may not advertise for employees under female and male classifications, base seniority lists on sex, deny a person a job because of State "protective" labor laws, or make distinctions between married or unmarried persons of one sex only. OFCCP established goals and timetables for the employment of women under construction contracts in 1978.



What To Do

As an individual you may not privately sue a company for violaion of Executive Order 11246. However, you may file a complaint of liscrimination by a Federal contractor or subcontractor by phone,

or personal visit to OFCCP in Washington, D.C., or to one of
:P's regional or area offices (see Appendix A for addresses).
laints may also be filed by individuals or organizations on
of persons affected by discriminatory conduct. If your com-
involves discrimination against only one person, OFCCP may
t to the Equal Employment Opportunity Commission. OFCCP
lly is concerned about practices that affect larger segments of
nployer's work force. You should file the complaint within 180
of the action you are complaining about since the filing time
e extended only for a good reason.

complaint letter should include a description of the discrimi-
action, names and addresses of the contractor and of all those
were discriminated against, and any other information that
aid in an investigation. After receiving the complaint OFCCP
conducts an investigation or refers the complaint to EEOC. If
vestigation indicates there are violations of the Executive order,
:P attempts to reach a conciliation agreement with the contrac-
conciliation agreement might include back pay, seniority
, promotions, or other forms of relief for the employees who
uffered from discrimination. If the conciliation effort is unsuc-
l, there is an established administrative process which includes
nal hearing. Contractors who do not comply may lose their
nment contracts, have payments withheld, or be debarred from
l contract work. In some cases the Department of Justice may
it in Federal court on behalf of the Department of Labor for
ions of the equal opportunity contract provisions.

mination Based on Age. The Age Discrimination in Employ-
Act of 1967 (ADEA) as amended, generally prohibits employers
using age as a basis for employment decisions for any person
0. The law applies to all public employers, private employers of
more employees, employment agencies serving covered employ-
d labor unions of more than 25 members.

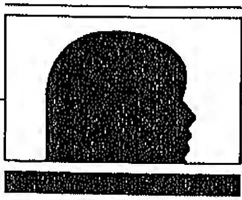
ployers may not fail or refuse to hire, discharge, or otherwise
ninate against any individual with respect to compensation or
or conditions of employment because of age. Employment
ies may not fail or refuse to refer an individual because of age,
bor unions may not exclude or expel a person because of age,
erwise discriminate against any individual because of age. The
prohibits help-wanted advertisements which indicate prefer-
limitation, specification or discrimination based on age. For
le, terms such as "girl," and "35–55," may not be used because
ndicate the exclusion of qualified applicants based on age. The

law does not prohibit discharge or discipline of an employee for good cause.

The ADEA does not cover situations in which age is a bona fide occupational qualification, such as modeling "junior miss" fashions; differences which are based on reasonable factors other than age, such as the use of a physical examination when heavy physical demands are to be made upon the worker in the performance of the job; and differences based on bona fide seniority systems or employee benefit plans, such as retirement, pension, or insurance plans. However, the act prohibits using employee benefit plans as a basis for refusing to hire older applicants or retiring older employees. The law does not permit the involuntary retirement of workers, except for certain senior executive and high-level policymaking employees and until January 1, 1994, police officers, firefighters, prison guards and tenured academic faculty who may be forced to retire at specified ages.

Employees working under a collective bargaining agreement may continue to be retired at age 70 until the termination of their union contract or January 1, 1990, whichever occurs first.

Employers must continue to provide pension credits for workers who work beyond the normal retirement age. Persons hired near the normal retirement age under a pension plan may not be excluded from participation in the plan after January 1, 1988. However, employers may require that employees participate in the plan at least 5 years to be eligible for certain pension benefits.



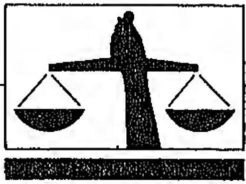
What To Do

If you think you have been discriminated against because of your ge, you may file a complaint with EEOC, which enforces the DEA. After receiving notice of a possible ADEA violation, an ual opportunity specialist will interview you to find out what hapıed and to counsel you about your rights under the law. If you ıt complete confidentiality you may file a *complaint,* which will handled by EEOC, and your name will not be given to the em-

ployer. However, if you want to preserve the right to file a private suit, you must file a *charge,* and the employer must be informed about who is making the charge.

Charges must be filed within 180 days of the alleged discriminatory action. After the initial interview, the equal opportunity specialist tries to conciliate the charge. If an agreement is not reached, EEOC may investigate further. EEOC may initiate court action if a violation of the law is found and final conciliation fails. Discriminating against an individual for starting proceedings under the law, opposing an illegal practice, testifying, or participating in an investigation is unlawful.

For additional information about the ADEA, contact EEOC at 800 USA-EEOC. It has free pamphlets which provide detailed information about the age discrimination law and EEO specialists who answer specific questions.



Betty Hall, 47 years old, was denied a job as a teller at the First Federal Savings and Loan Association of Broward County, Florida. A Labor Department investigation revealed that the personnel officer who interviewed her marked "too old for teller" on his notes. Other evidence of age discrimination included an ad for a "young man," a job order with an employment agency for teller trainees between the ages of 21 and 24, and the fact that none of the 35 persons hired for teller jobs in the year following passage of the Age Discrimination in Employment Act were over 40. The court upheld an injunction prohibiting the bank from further violations of the ADEA and ordered back pay for Betty Hall. Hodgson v. First Federal Savings and Loan Ass'n., *455 F. 2nd 818 (5th Cir. 1972).*

Discrimination Based on Handicap. Handicapped workers are protected from discrimination by Federal law if they are employed by companies that hold Federal contracts or subcontracts, are participants in programs or activities that receive Federal funds, or if they are employed by the Federal Government.

Under section 503 of the Rehabilitation Act of 1973, as amended, Federal contractors and subcontractors who have contracts in excess of $2,500 may not discriminate against persons otherwise qualified to do the job in hiring, firing, promotions, compensation, or other terms or conditions of employment because the person has a physical or mental handicap.

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, enforces section 503 of the Rehabilitation Act. OFCCP regulations covering affirmative action obligations of Federal contractors and subcontractors require outreach and positive recruitment as well as individualized accommodation to the physical limitation of an applicant or employee, if necessary. The OFCCP enforcement process includes investigation and conciliation efforts as well as recourse to court action. Remedies include withholding of payments and debarment from Federal contracting. Federal courts in general have not recognized the right of an individual to sue privately under this section.

Section 504 of the Rehabilitation Act, as amended in 1978, forbids discrimination against handicapped individuals in programs or activities receiving Federal funds. Courts have held that section 504 permits individuals to take legal action against such programs for discriminatory acts. Section 504 is enforced by the agency providing Federal assistance, under the general leadership of the Department of Justice. The EEOC provides leadership and guidance with respect to employment discrimination based on handicap.

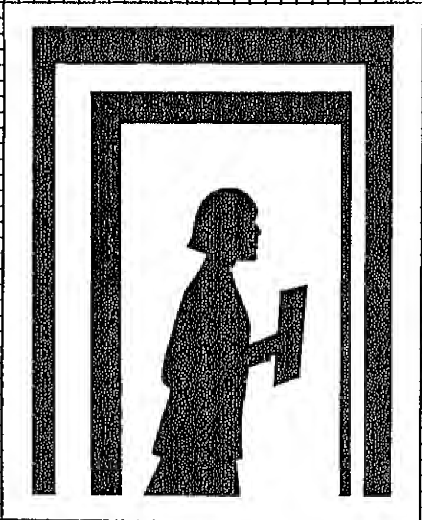
Federal regulations prohibit Federal agencies from discriminating against qualified physically or mentally handicapped persons; require them to make reasonable accommodation to the known physical or mental limitations of qualified handicapped applicants or employees; and require them to issue regulations regarding the acceptance and processing of complaints of discrimination based on a physical or mental handicap. The Equal Employment Opportunity Commission enforces the regulations that apply to Federal employees.

Employers, unions, public and private employment agencies, and joint labor-management committees for apprenticeship and training are prohibited by some State fair employment practices laws from discrimination based on handicap. For information about State protections, contact the State department of labor or human rights commission.

What To Do

If you think you are qualified to do a particular job, and have been discriminated against because of your handicap, contact the agency responsible for enforcing the law that protects handicapped workers. (See Appendix A for addresses.)

On the Job



Workers are protected on the job by a variety of laws which prohibit discrimination and govern wages, hours, occupational safety and health and other employment-related issues.

Minimum Wages and Overtime Pay

The Fair Labor Standards Act (FLSA) provides for minimum wages and overtime pay for covered workers. The FLSA now covers the great majority of workers. However, casual babysitters and companions for the aged and infirm; executive, administrative, and professional employees; outside salespeople; employees of certain small, local retail or service establishments; and some agricultural workers, are still exempt from both the minimum wage and overtime premium pay provisions of the FLSA.

Since January 1981, the minimum hourly rate for all covered workers has been $3.35 for the first 40 hours each week (workers in some States benefit from higher rates under State laws). Under certain conditions lower rates may be paid to learners, apprentices, handicapped workers, and full-time students.

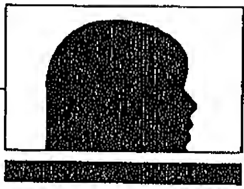
The FLSA does not limit the hours of work for employees who are 16 years old or older. However, most covered workers are entitled to 1½ times their regular rate of pay for hours in excess of 40 a week. The law does not require premium pay for overtime for covered agricultural workers, live-in household workers, taxicab drivers, and employees of motor carriers, railroads, and airlines. Hospitals and residential care establishments may adopt, by agreement with the employees, a 14-day overtime period instead of the usual 7-day workweek, if the employees are paid at *least* time and a half their regular rate for hours worked over 8 in a day or 80 in a 14-day period, whichever is the greater number of overtime hours.

The law permits lodging, board, or other facilities provided by an employer to be considered as a part of wages. Also tips actually received and retained may be counted for up to 40 percent of the minimum wage. The tip credit can be claimed only for workers who are engaged in an occupation in which they customarily and regularly receive tips of more than $30 a month.

The Federal law does not require premium pay for weekends or holiday work, or, generally, for daily overtime; nor does it require rest periods, discharge notices, or severance pay. It is enforced by the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor, which has authority to investigate complaints and to initiate action against violators of the law who may be subject to civil or criminal court action.

Some States have laws limiting the days per week an employee can be required to work or which contain provisions on Sunday work, working on the Sabbath, holidays, and rest periods. The State department of labor can provide information about its employment laws.

Provisions of a collective bargaining agreement or written personnel policies may provide similar or additional benefits with some employers.



What To Do

If you think that you are not being paid the minimum wage or required overtime pay, you may file a complaint with the Wage and Hour Division. Complaints are treated confidentially. More detailed information on the FLSA and other laws administered by the Division is available from local Wage and Hour offices, which are listed in the white pages of most telephone directories under U.S. Government, Department of Labor, Employment Standards Administration, Wage and Hour Division.

Upon receiving a complaint of an FLSA violation, Wage and Hour compliance officers investigate to see if it is valid. If it is, the Wage and Hour Division attempts to persuade the employer to comply with

the law. If these attempts are unsuccessful, the case is referred to the Department of Labor Solicitor's Office, which may decide to file suit against the employer in Federal court.

In addition to the Federal remedy, under FLSA you have a right to sue the employer yourself for back pay, damages, attorney's fees and court costs. However, if you begin a private suit, the Department of Labor will not pursue your case in court. In order to recover back pay, you must file your suit in court within 2 years, except in cases of willful violations, in which case the time limit is 3 years.

It is unlawful to discharge or otherwise discriminate against an employee for filing a complaint or participating in a proceeding under the FLSA.

Waitresses and waiters at a Marriott restaurant averaged more than the minimum wage in tips, and management paid any difference if the tips fell below the minimum wage. The U.S. Court of Appeals held that this policy violated the Fair Labor Standards Act as amended in 1974. The FLSA provided that employers must pay at least 50 percent (since January 1981, the tip credit may not exceed 40 percent) of the minimum wage regardless of the amount of tips, that employees have a right to retain their tips unless the employees are participating in a valid tip pool arrangement (one in which only those employees who customarily receive tips participate) and that the tip credit toward the minimum wage was available only if employers informed employees about the provisions of the FLSA law. The court ordered back wages of the full amount of the minimum wage during the period of violation because it found that the employer's failure to inform employees of the FLSA tipping provisions was in bad faith. Richards v. Marriott Corp., *549 F. 2nd 303 (4th Cir. 1977).*

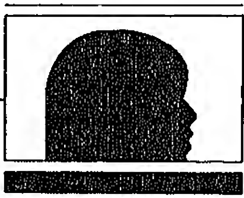
Equal Pay

The Equal Pay Act of 1963 amended the FLSA to prohibit pay discrimination because of sex. It requires the employer to pay equal

wages within the establishment to men and women doing equal work on jobs requiring equal skill, effort, and responsibility, which are performed under similar working conditions. Pay differences based on a seniority or merit system or on a system that measures earnings by quantity or quality of production are permitted. Employers may not reduce the wage rate of any employee in order to eliminate illegal wage differences. The law is interpreted as applying to "wages" in the sense of all employment-related payments, including overtime, uniforms, travel, and other fringe benefits.

In addition to covering employees subject to the minimum wage requirements of the FLSA, the law applies to Federal, State and local government employees; executive, administrative, and professional employees; and outside salespeople.

A number of court cases have established that jobs need be only substantially equal, not identical, in order to be compared for purposes of the act; job descriptions or classifications are irrelevant in showing that work is unequal, unless they accurately reflect actual job content, and mental as well as physical effort must be considered.



What To Do

If you think you are not receiving equal pay for equal work, you may file a complaint with the Equal Employment Opportunity Commission, which enforces the Equal Pay Act. If you request confidentiality, your identity will not be revealed during an investigation of an alleged equal pay violation. If a violation is found, EEOC will negotiate with the employer for a settlement including back and appropriate raises in pay scales to correct the violation of the law. EEOC may also initiate court action to collect back wages under the act.

Under the Equal Pay Act you also have a right to sue privately for back pay, damages, attorney's fees, and court costs. However, you may not sue the employer if you have already been paid full back vages under EEOC supervision or if EEOC has filed a suit in court ɔ collect these wages. You must file suit within 2 years of an Equal ay Act violation, except in the case of deliberate violations, in which se there is a 3-year time limit.

A glass manufacturing company paid male selector-packers 21 cents an hour more than female selector-packers, and tried to justify the difference on the basis that men performed additional duties such as lifting and stacking cartons and using hand trucks. The Court of Appeals ruled that under the Equal Pay Act "equal" does not mean identical but rather substantially equal, and minor differences in duties do not justify pay differences. Shultz *v.* Wheaton Glass Co., *421 F. 2nd 259 (3rd Cir. 1970).*

Sex-Based Wage Discrimination

Title VII of the Civil Rights Act of 1964, as amended, also prohibits wage discrimination based on sex, as well as race, religion, and national origin. According to a 1981 decision by the U.S. Supreme Court, wage discrimination covered by Title VII is not limited to unequal pay for equal work. Most women workers are concentrated in relatively few occupations. Some who work in traditionally female jobs have filed complaints under Title VII, charging that such work is undervalued and underpaid in comparison with other work—generally performed by men—different in content but seen to require the same or less educational preparation, experience, skill and responsibility. For example, nurses have questioned their pay compared to that of city sanitarians, and clerical employees have claimed discrimination in comparing their wages to those of physical plant employees. This is a developing area of the law, and it is not yet clear what practices courts will rule amount to sex-based wage discrimination under Title VII.

Promotions, Training, and Working Conditions

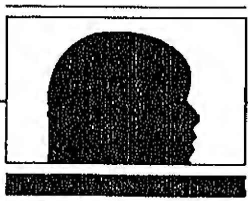
Title VII of the Civil Rights Act of 1964 (described in the section on "Getting the Job") also protects workers against discrimination on the basis of sex, race, color, religion, or national origin in most on-the-job aspects of employment. Employers must recruit, train, and promote persons in all job classifications without discrimina-

tion. Promotion decisions must be made according to valid requirements. Training and apprenticeship opportunities must be offered in accord with equal employment opportunity principles. Employers may not discriminate against individuals in any terms or conditions or privileges of employment.

Similar protections are provided to employees of Federal contractors and subcontractors under Executive Order 11246, as amended. (See section on "Discrimination Based on Sex, Race, Color, Religion, and National Origin.") Under the affirmative action order for service and supply contractors, employers are required to set goals and timetables for promoting women and minorities in jobs where they have been underutilized.

On-the-job protection for handicapped workers is provided under sections 501, in the case of Federal employment, and 503 and 504 of the Rehabilitation Act of 1973 (see page 14). The Age Discrimination in Employment Act (see page 11) protects workers from on-the-job discrimination based on age.

Some States require employers to provide employees with meal periods, rest periods, and/or seats. Such State provisions applying to women only have generally been repealed, rendered invalid, or extended to men. Your State labor department listed in Appendix B can tell you whether your State has such provisions.



What To Do

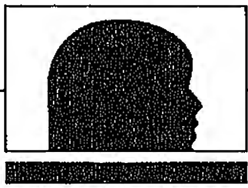
If you think you have been treated unfairly on the job, and the basis for the action was your sex, race, color, religion, national origin, handicap, or age, you may contact the agency that enforces the law for more information about the protections provided and the enforcement process. You can find out how to file a complaint and what your legal rights are. The laws prohibit employers from discharging or otherwise discriminating against individuals who file complaints or participate in an enforcement process.

Title VII of the Civil Rights Act of 1964 as amended in 1978, specifically prohibits discrimination because of pregnancy. Employers cannot refuse to employ a woman because of pregnancy or terminate her, force her to go on leave at an arbitrary point during pregnancy, or penalize her because of pregnancy in reinstatement rights—including credit for previous service, accrued retirement benefits, and accumulated seniority.

The law does not require an employer to provide a specific number of weeks for maternity leave, or to treat pregnant employees in any manner different from other employees with respect to hiring or promotions, or to establish new medical, leave, or other benefit programs where none currently exist.

The law requires that women affected by pregnancy, childbirth or related medical conditions be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as persons not so affected but similar in their ability or inability to work. The amendment does not require employers to pay for health insurance benefits for abortions, except where the life of the mother would be endangered or where medical complications have arisen from an abortion. On the other hand, it does not preclude employers from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion. Employers may not fire or refuse to hire a woman simply because she has exercised her right to have an abortion.

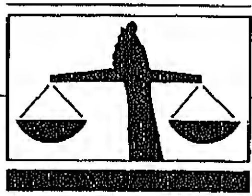
Pregnant workers in a number of States are entitled to benefits under statewide temporary disability insurance laws, special sections of fair employment or labor codes, and regulations or court decisions interpreting statutory bans on sex discrimination in employment. You can check with the department of labor or human or civil rights agencies listed in Appendix B for information about your rights to fringe benefits under State laws.



What To Do

If you think you are being treated unfairly because your temporary inability to work is due to pregnancy, you should contact the Equal

Employment Opportunity Commission office that serves your area for information about your rights under Title VII. (See Appendix A for addresses.)



Nora Satty was required to take leave of absence because of her pregnancy. When she returned to work she was given a temporary position, and was denied her accumulated seniority, with the result that she was unable to compete successfully for a permanent position in the company. Under company policy seniority was retained during leaves of absence for disease or disability other than pregnancy. The Supreme Court held that the company policy violated Title VII of the Civil Rights Act of 1964 because it imposed a burden on women that was not imposed on men. Nashville Gas Co. *v.* Satty, *434 U.S. 136 (1977).*

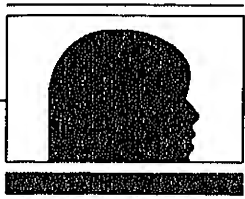
Sexual Harassment

Sexual harassment is an unlawful employment practice under Title VII of the Civil Rights Act of 1964, as amended. The EEOC "Guidelines on Discrimination Because of Sex" provide that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that person;
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (In 1986 the U.S. Supreme Court agreed with the EEOC guidelines and court rulings that unwelcome sexual advances that create an offensive or hostile working environment violate Title VII.)

An employer, employment agency, joint apprenticeship committee, or labor organization may be responsible for the acts of its agents and supervisory employees, regardless of whether the specific acts complained of were forbidden and regardless of whether the em-

ployer knew of their occurrence. An employer is responsible for sexual harassment by coworkers where the employer knew or should have known of the conduct, unless immediate and appropriate corrective action was taken. An employer may also be responsible for sexual harassment by clients or customers.



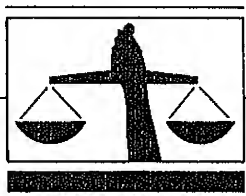
What To Do

If you are being sexually harassed, you can contact the Equal Employment Opportunity Commission for information and assistance in filing a sex discrimination complaint under Title VII. In sexual harassment cases it is particularly important to keep a record of incidents of harassment as described in the section on "How Women Can Assert Their Job Rights."

A victim of sexual harassment can also file a suit under State laws which protect against assault, battery, intentional infliction of emotional distress, or intentional interference with an employment contract.

If the sexual harassment subjects the person being harassed to sexual contact, it could be a violation of criminal law against sexual assault. In addition, women in one case were able to seek redress under the National Labor Relations Act. (See example: *NLRB* v. *Downslope Industries, Inc. and Greenbriar Industries, Inc.)*

For more information, contact the Equal Employment Opportunity Commission at 800-USA-EEOC or the Women's Bureau, U.S. Department of Labor, Washington, D.C., 20210 for a list of resources.



Kyriaki Cleo Kyriazi claimed that three men working in the same department with her teased and tormented her by making

loud remarks concerning her marital status; trumpeting their speculations and making wagers concerning her virginity; deliberately blocking her path; placing an obscene cartoon of her on her desk; and treating her with contempt and ridicule and attempting to denigrate her as a professional. The U.S. District Court found that her supervisors were well aware of the harassment to which Kyriazi was subjected but chose to disregard her complaints and totally failed to take any action against the men who harassed her. It held that Kyriazi had alleged and proved a pattern of conduct on the part of her coworkers and supervisors which amounted to a tortious interference with her employment contract. Kyriazi *v.* Western Electric Co., *476 F. Supp. 335 (D.N.J. 1979).*

A group of seamstresses refused to start work until the "consulting" plant manager had listened to their protest against sexual harassment by their plant manager. After asking those who did not want to work for the plant manager to raise their hands, the "consulting" plant manager told the eight who did so to work for the plant manager or "hit the clock." After returning to the plant to ask for their jobs or their discharge slips, they were given their termination notices. The U.S. Court of Appeals held that freedom from sexual harassment is a working condition which employees may organize to protect under the National Labor Relations Act. It upheld the finding of the National Labor Relations Board that the employer's discharge of the employees violated the Act's prohibition on employers from interfering with, restraining, or coercing employees in the exercise of their rights under the Act. NLRB *v.* Downslope Industries, Inc. and Greenbriar Industries, Inc., *110 LRRM 1022 (1982).*

Garnishment

Garnishment is a procedure through which a creditor (such as a department store, finance company or recipient of court-ordered child support or alimony payments) can collect money owed; and the creditor has access to property of the debtor which is held by a third party (such as a bank or an employer). The most common form of garnishment is wage garnishment, where a creditor can go to court to get an order to have a portion of the debtor's wages paid directly to the creditor. Debtors are protected in garnishment proceedings by Title III of the Consumer Credit Protection Act, which is enforced by the Wage and Hour Division of the U.S. Department of Labor. The

law limits the amount of disposable income which may be taken in a garnishment proceeding, and protects workers from being fired because of garnishment for any one indebtedness.

Many States have garnishment laws with provisions which offer greater protection than the Federal law does. For information about State laws, contact the State department of labor or consumer protection agency. For information about the Federal law, contact the Wage and Hour Division of the U.S. Department of Labor. (See Appendix A for addresses.)

Unemployment Insurance

Unemployment insurance is a weekly benefit paid for a limited time to eligible workers when they are involuntarily unemployed. The purpose of the payment is to tide unemployed workers over until they find jobs for which they are reasonably suited in terms of training, past experience, and past wages. Benefits are paid in cash as a matter of right, and are not based on need. Unemployment insurance is a Federal-State system under which the Federal law establishes certain minimum requirements, but each State administers its own program. State law determines who is eligible, how much money each person receives, and how long benefits will be paid. To be eligible, a person must be unemployed, able to work, and available for and seeking work.

In most States benefits are paid out of a fund collected from a special tax on employer payrolls. The amount of each employer's tax varies according to the amount of unemployment benefits paid to former employees. The Federal Government provides funds for payments to its laid-off civilians and for persons discharged from the Armed Forces.

Almost all workers are covered by unemployment insurance. While each State specifies the amount of weekly and total payments and the manner in which they are calculated, the usual result is that the jobless worker receives about 50 percent of the average weekly wage formerly received. Most States limit payment to a maximum duration of 26 weeks, although some continue as long as 28 to 39 weeks. A special program—the Extended Benefits Program—provides that during times of high unemployment in the State, individuals who have exhausted their benefits under State law may continue to receive payments for up to 13 additional weeks. Unemployment payments may be taxable if an individual's adjusted gross income reaches a certain level, depending on State and Federal income tax reporting requirements.

Each State has its own rules about who is not qualified to receive benefits. Voluntary quits without good cause and being fired for misconduct are the two major reasons for disqualification. Another is refusal to accept a suitable job without good cause. The individual who is refused benefits is given a report indicating why benefits will not be paid and how long the disqualification will last. Penalties can range from postponement to denial of benefits for the duration of the current period of unemployment. States cannot deny benefits solely on the basis of pregnancy or recency of pregnancy, but pregnant individuals do have to meet the generally applicable requirements of seeking work and being available for and able to work. Persons who leave their jobs because of sexual harassment may be able to show they quit for good cause. Successful actions have been brought in a number of States in which women were held eligible for unemployment benefits after leaving a job because of sexual harassment.

Many States have provisions which disqualify workers who quit for reasons not attributable to the work or the employer. A number of other States disqualify workers for leaving the job for family reasons, such as getting married, moving with a spouse, or child care problems. Some States, however, will pay benefits to persons who quit their jobs for compelling personal reasons, and make decisions about benefit payments on a case-by-case basis according to the individual circumstances.

The requirement that a worker be available for employment in order to be eligible for unemployment compensation benefits presents problems for part-time workers in most States. This is because "available for employment" is interpreted to mean available for full-time employment. In most cases the requirement for full-time availability is the result of administrative interpretation, rather than provisions in the legislation. In a few States, unemployed persons who can work part time only will be considered "available" (and eligible for unemployment compensation) if they have been working in an occupation in which there is substantial demand for workers.

For information about unemployment benefits and eligibility requirements in your State, contact the employment security office that serves your area. Addresses are included in the telephone directory under State government listings.

Termination

There is no general law which prohibits private employers from discharging employees without good cause. Employers have historically had the right to fire employees at will, unless there was a written contract which protected against it. This broad right to discharge employees at will has been limited by a number of Federal laws which prohibit discrimination based on sex, race, color, religion, national origin, age, physical or mental handicap, union or other protected concerted activities, wage garnishment, and filing complaints or assisting in procedures related to enforcing these laws.

In addition, some States and municipalities have passed laws which prohibit discharge for serving on jury duty, filing workers' compensation claims, refusing to take lie detector tests, or for discrimination based on marital status or sexual orientation. Collective bargaining agreements between employers and unions, and employee complaint procedures, also impose limitations on the absolute right of an employer to fire workers.

Some employees who have challenged their discharges in courts have succeeded in placing additional limitations on employers' right to discharge. Courts in some States have ruled in favor of discharged employees—when the discharge was contrary to public policy, such as refusal to commit perjury or to approve market testing of a possibly harmful drug; when it was not based on good faith and fair dealing, such as discharge for refusal to date a supervisor, or to avoid paying a large commission; or when there was an implied promise of continued employment. An implied promise of continued employment might be demonstrated by the personnel policies or practices of an employer, an employee's length of service, the nature of the job, actions or communications by the employer, and industry practices.

Union Participation and Other Protected Activities

The National Labor Relations Act, as amended by the Labor-Management Relations Act, provides employees the right to form, join, or assist labor unions; to bargain collectively through representatives of their own choosing on wages, hours, and other terms of employment; and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, such as striking to secure better working conditions. Employees are also guaranteed the right to refrain from membership or participation in a union, except where such membership is a requirement of employ ment. Laws in some States do not permit union membership to be

requirement of employment. Such laws are referred to as right-to-work laws. In the States where a union membership requirement is permitted, an employee usually has a grace period of not less than 30 days after being hired to become a member.

Certain labor practices by employers are labeled "unfair" and are prohibited by the NLRA. These include interference with or restraint or coercion of employees in the exercise of the rights described above; domination of or interference with the formation or administration of a labor organization, or the contribution of financial or other support to it; discrimination in hiring, tenure, or terms or conditions of employment in order to encourage or discourage membership in a labor organization; discharging or discriminating against an employee for filing charges or giving testimony under the act; and refusing to bargain collectively.

The law also defines practices by unions that are unfair. Such practices include restraining workers or coercing them in the exercise of their rights and requiring them to pay membership or initiation fees that are excessive or that discriminate between members. It is also an unfair practice for a union to cause an employer to discriminate against a worker. Maintaining separate locals for male and female employees is an example of the unfair practice of restraining and coercing employees in the exercise of their right to be represented by a representative of their choosing.

Some types of workers are not covered by the law. These include agricultural laborers, private household workers, independent contractors, supervisors, persons subject to the Railway Labor Act, public employees, and some hospital workers. For further information write the nearest office of the National Labor Relations Board. A ocal post office can supply the address.

The Labor-Management Reporting and Disclosure Act (LMRDA) provides for the reporting and public disclosure of certain financial transactions and administrative practices of unions, union officers and employees, employers, labor relations consultants, and surety companies. It lays down a set of ground rules governing the use of union trusteeships and establishes democratic standards for union officer elections. It also establishes safeguards for the protection of union funds and property.

The LMRDA includes a Bill of Rights of members of labor organizations which protects their freedom of speech and assembly and their equal rights to nominate candidates for union office, vote in union elections and referendums, and attend and participate in membership meetings. It guarantees certain rights to union members fac-

ing discipline by labor organizations and establishes procedures which a labor organization must follow in increasing dues and initiation fees and imposing assessments. The LMRDA Bill of Rights establishes the right of an employee to review, or in some cases to obtain, a copy of each collective bargaining agreement directly affecting his or her rights as an employee.

The Department of Labor is responsible for enforcing some provisions of the LMRDA. Other provisions, however, are enforceable only through private suit by union members. For more information contact the Office of Labor Management Standards, U.S. Department of Labor, Washington, D.C. 20210.

Cheryl A. McNeely was discharged, at least in part, for discussing her salary with another clerical employee. For a number of years the employer had maintained an unwritten rule prohibiting employees from discussing wage rates with other employees. The National Labor Relations Board upheld a finding that the rule violated employees' rights to engage in concerted activities for mutual aid or protection. Jeannette Corporation, *217 NLRB 122 (1975).*

Locals 106 and 245 of the Glass Bottle Blowers Association maintained locals whose memberships were determined solely by sex, providing male and female employees equal but separate treatment. The National Labor Relations Board found that the locals thereby restrained and coerced employees in the exercise of their right to be represented by a representative of their own choosing, in violation of the National Labor Relations Act. Local No. 106, Glass Bottle Blowers Association, AFL-CIO (Owens-Illinois, Inc.) and Local No. 245, Glass Bottle Blowers Association, AFL-CIO (Owens-Illinois, Inc.), *210 NLRB 131 (1974).*

Employee Access to Personnel Files

There is no Federal law which requires employers to allow emp ees to examine their own personnel files. However, in 1982, at least

States had laws which required some or all employers to allow employees such access. Generally these laws do not cover items such as letters of reference or records relating to an investigation for a criminal offense.

Employees of the Federal civil service do have the right to inspect their personnel files. In addition, collective bargaining agreements between unions and employers may also provide for employee access, as may the personnel policies of individual employers.

Child and Dependent Care Tax Credit

A tax credit for actual expenses incurred for child or dependent care is available to an employed person if the expenditures enable that person to be gainfully employed. The credit is computed at 30 percent for taxpayers with incomes of $10,000 or less, with the rate of the credit reduced one percentage point for each additional $2,000 of income above $10,000. When incomes are over $28,000, the credit is computed at 20 percent. The limits on expenses for which the credit may be taken are $2,400 for one dependent and $4,800 for two or more dependents. The chart below shows the amount of credit that may be taken at various income levels.

The expenses may be for services provided in the taxpayer's home, or for out-of-home care for dependents under age 15, or for adult dependents who are disabled and who live with the taxpayer. This means that day care expenses for dependent adults are included, but expenses for residential care in a nursing home or similar facility for dependent adults are not. Credit is available to all eligible taxpayers, regardless of the gross income of the family, whether or not they itemize deductions, or which tax form they file. It is available to married couples if either or both spouses work full and/or part time, to single working parents, and to full-time students with working spouses. To claim the credit, married couples must file a joint return. In the case of part-time workers, the amount of qualified expenses (those on which the 20 to 30 percent credit is figured) is limited to the earnings of the spouse with the lower income. For example, if one spouse earned less than $2,000 and the couple had two children, and

Family Income Before Taxes	Percentage Tax Credit	Maximum $ Amount of Credit	
		1 Dependent	2 Or More Dependents
Up to $10,000	30	$720	$1,440
$10,001 to 12,000	29	696	1,392
12,001 to 14,000	28	672	1,344
14,001 to 16,000	27	648	1,296
16,001 to 18,000	26	624	1,248
18,001 to 20,000	25	600	1,200
20,001 to 22,000	24	576	1,152
22,001 to 24,000	23	552	1,104
24,001 to 26,000	22	528	1,056
26,001 to 28,000	21	504	1,008
28,001 and over	20	480	960

the child care expenses exceeded $4,800, the amount of expenses allowable for computing the credit would be $2,000, the amount of the low-earning spouse's income. The earned income limit is equally applicable to unmarried taxpayers.

The credit is also available to a divorced or separated parent who has custody of a child under age 15 for more than half the calendar year—even though the other spouse may be entitled to claim the personal income tax exemption for a dependent child. A deserte spouse may claim the credit if the deserting spouse is absent for tl last 6 months of the taxable year.

Payments to relatives, such as grandparents or adult children ii cluding those living in the same household, qualify for the credi provided the relative is not the taxpayer's dependent and the relative wages are subject to social security taxes. However, no credit is allow able for payments made to a child of the taxpayer under age 18.

The credit is computed on an annual basis. For that reason, the entire amount of qualifying expenses on which the credit is computed ($2,400 or $4,800) is available to eligible taxpayers having the appropriate number of dependents at any time during the taxable year.

After Retirement

Social Security

The Social Security Act provides for monthly retirement and disability benefits to workers and auxiliary or survivor benefits to families of workers covered by the system. Many persons covered by the act are also entitled to medicare benefits.

Workers in approximately 9 out of 10 jobs are covered by social security, including household employees and the self-employed. (Although most Federal workers pay taxes for hospital insurance under the medicare program, they are covered by a separate retirement system. As of January 1, 1984, new Federal employees also were covered by social security.)

Social security is financed primarily through a payroll tax deducted from employees' earnings by employers, who match the contributions, and through social security taxes paid by the self-employed. In 1987, the payroll tax rate for employers and employees was 7.15 percent. The rate for self-employed persons was 14.30 percent in 1987. For 1984 through 1989, credits against self-employment tax liability will reduce the effective tax rate self-employed people will pay. After 1989, the credits will be replaced with special provisions designed to treat the self employed in much the same manner as employees and employers are treated for social security and income tax purposes. The maximum amount of earnings taxed for social security purposes, called "the earnings base," was $43,800 in 1987. It rises automatically in future years as earnings levels rise. Self-employed workers pay social security contributions based on their net earnings at the same time they pay their Federal income taxes. The contributions are paid to the Internal Revenue Service, and placed in trust funds from which benefits are paid to those eligible. The contributions are not refundable.

A person who has 40 "quarters of coverage" (credit for 10 years of covered employment) is fully insured, which qualifies her or him for all benefits except disability. (Workers who reach age 62 before 1991 are fully insured with fewer quarters of coverage.) To receive credit for one quarter of coverage for social security benefits, a worker must earn a specified amount each year. In 1987, the amount was $460. This amount may increase each year based on increases in average wages. A worker may earn a maximum of four quarters of coverage each year, usually without regard to when the income was earned. For example, a person could earn $2,000 in 1 month, not work for the rest of the year, and receive credit for 4 quarters of coverage.

Disabled Workers. Workers under age 65 who are mentally or physically disabled and whose disability is expected to prevent them from working in any kind of substantial gainful activity for at least 12 months, or to result in death, may be eligible for monthly social security benefits. To be insured for disability benefits a worker must be fully insured and must have earned at least 5 years of work credit in the 10 years immediately before becoming disabled. (There are less strict requirements if a worker becomes disabled before age 31.) The amount of disability payment is generally computed the same as the retirement benefit at age 65. Benefits generally are payable after a waiting period of 5 full calendar months after the disability starts. Early application is advisable because the procedure for determining eligibility is a lengthy one, and back payments to those who delay in applying are limited to 12 months.

Auxiliary and Survivor Benefits. The spouse of a retired or disabled worker is entitled at age 65 to a benefit equal to 50 percent of the amount of the covered spouse's full benefit. (Actuarially reduced benefits are available beginning at age 62.) Other family members may also be entitled to a benefit equal to 50 percent of the covered worker's full benefit; these include children under age 18 and spouses, regardless of age, who are caring for children under age 16 who are receiving a benefit. However, there is a maximum amount that will be paid to each family. A divorced person can get benefits on a former spouse's earnings record when that spouse retires, becomes disabled, or dies, if the marriage lasted at least 10 years. Effective January 1985, a divorcee can get spouse benefits at age 62 if her ex-husband is eligible for benefits—whether or not he is actually receiving them—and they have been divorced for at least 2 years. Persons ho are entitled to social security benefits on their own records, as ll as benefits as an auxiliary or survivor, receive an amount equal the higher benefit.

Dependent children of an insured parent who retires, is disabled, or dies include: any unmarried children under age 18; unmarried children between 18 and 19 who are full-time elementary or secondary school students; and unmarried children age 18 or over who become disabled before age 22 and continue to be disabled. (Certain children who have been full-time post-secondary school students continuously since May 1982 are eligible to receive benefits until age 22 through a phaseout provision under which their benefits are reduced 25 percent each year after 1981.) Children can get benefits even if the other parent is still working.

A surviving spouse of a worker who was fully insured (including a divorced surviving spouse whose marriage to the worker lasted at least 10 years) may be entitled to benefits on the deceased worker's record. If the surviving spouse starts receiving benefits at age 65, the benefit generally is equal to 100 percent of the deceased spouse's full benefit amount. However, if the deceased spouse had retired before age 65 and received reduced benefits, the survivor's amount is limited to the amount that the deceased spouse would receive if still living, but not less than 82½ percent of the full amount. The benefit for the surviving spouse also includes any credit the deceased worker earned for continuing to work beyond age 65 without drawing benefits. Surviving spouses can elect to start drawing benefits as early as age 60, but if they do, such benefits are reduced, up to a maximum of 28½ percent, depending on how many months remain before their 65th birthday.

A disabled surviving spouse can start drawing benefits as early as age 50, provided the disability that prevents substantial gainful activity began no later than 7 years after the covered spouse died or after the end of entitlement to benefits as a surviving spouse caring for children under age 16. In such a case, the benefit is reduced for each month the widow is under age 60, so that if benefits are elected at age 50, they equal 50 percent of the deceased spouse's full benefit amount. Effective January 1984, benefits for disabled surviving spouses under age 60 increased to 71.5 percent of the deceased worker's full benefit amount.

In most cases, remarriage terminates the eligibility of a person under age 60 for benefits as a surviving spouse or a surviving divorced spouse. Remarriage after age 60 does not affect eligibility of a surviving spouse. Starting January 1984, benefits also can continue to a surviving divorced spouse who remarries after age 60, or to a disabled surviving divorced spouse who remarries after age 50. Surviving children and surviving spouses who are caring for children

under age 16 can get benefits equal to 75 percent of the deceased worker's full benefit subject to the family maximum.

Retired and disabled workers who first become eligible after 1985 for both a social security benefit and a pension based in whole or in part on work not covered by social security will have their social security benefits figured under a different formula. This will result in a lower social security benefit to take account of their years of work outside of covered employment.

Social security benefits to which a person is entitled as a spouse or surviving spouse may be reduced by the amount of any Federal, State, or local pension payable to the survivor from her or his own work in public employment which was not covered by social security. Persons who meet both of the following requirements may not be affected by this offset provision which took effect on December 1, 1977: (1) they became eligible for such a public pension before December 1982, and (2) they would have been eligible for the social security spouse's benefit under the law as it was administered in January 1977. This provision exempting certain persons from the offset is under challenge in the courts, so persons affected should check with the social security office for more information. Even persons who do not meet the above criteria may be exempt from the offset if both of the following requirements are met: (1) they receive or are eligible to receive their Federal, State, or local government pension before July 1, 1983, and (2) they were receiving at least one-half support from their spouse. For persons who first become eligible to receive their Federal, State, or local government pensions after June 1983, only two-thirds of the amount of that pension will be counted under this offset provision.

How To Get Benefits. In order to receive social security benefits you must apply for them. The amount of the monthly benefit is determined at the time you apply at the local social security office. The amount is based on your average earnings over a period of years. Currently, you can receive full retirement benefits at age 65 and reduced benefits as early as age 62. But if you retire between age 62 and age 65, there is a permanent reduction up to a maximum of 20 percent in the amount of your benefits, based on the number of months you get retirement checks before you reach age 65. If you choose to work past age 65, you get a credit which is added to the amount of your monthly benefit payment.

If you continue to work after you start to receive social security nefits, $1 in benefits will be withheld for each $2 earned above a ·tain amount, depending on your age, until you reach age 70. In

1987, the amount for persons age 65 and over is $8,160 and for persons under age 65, $6,000.

Medicare. Medicare is another social security benefit. It is health insurance for people age 65 and over who are eligible for social security or railroad retirement benefits and for people at any age who have been eligible for 24 months or more to receive disability benefits under those programs. After 1982, Federal Government employees and certain of their family members may become eligible for medicare hospital insurance based on the worker's Federal employment. It is not necessary to retire at age 65 to have medicare protection. Medicare consists of hospital insurance and medical insurance, which includes payments for physicians, home health care, and other services and supplies.

Current information about medicare coverage, premiums, and deductibles, as well as potential retirement benefits is available from local social security offices, listed in the telephone directory under "Social Security Administration."

Pensions

Many workers are covered by private pension plans which supplement their social security benefits in retirement. Although some plans are personal, the majority are sponsored by employers or unions, or jointly by employers and unions. Employer-sponsored plans may be financed either entirely by the employer, or by employers with employee contributions.

Pension plans are generally classified either defined benefit or defined contribution plans. In *defined benefit plans* the amount of the benefit is fixed, but not the amount of contribution. These plans usually gear benefits to years of service and earnings or a stated dollar amount. In *defined contribution plans,* the amount of contributions is generally fixed, but the amount of benefits is not. These plans usually involve profit sharing, stock bonus or money purchase arrangements where the employer's contribution, usually a percentage of profits, is divided among the participants based on the individual's wages and/or years of service, and accumulations in the individual's pension account. The eventual benefit is determined by the amount of total contributions and investment earnings in the years during which the employee is covered.

In 1974 Congress enacted the Employee Retirement Income Security Act (ERISA) to protect the interest of American workers and their beneficiaries who depend on benefits from employee pension

and welfare plans. ERISA requires disclosure of plan provisions and financial information; establishes standards of conduct for trustees and administrators of welfare and pension plans; and sets up funding, participation, and vesting requirements for pension plans and an insurance system for certain defined benefit plans that terminate without enough money to pay benefits. ERISA does not require that employers establish pension plans, nor does it set benefit levels. *The law prohibits discharging a worker in order to avoid paying a pension benefit.* The Economic Recovery Tax Act of 1981 provides that employed persons and their non-working spouses may put aside a certain amount of income each year in an individual retirement account (IRA). The Tax Reform Act of 1986 restricts the use of IRA's.

In 1984 Congress enacted the Retirement Equity Act (REA) which amended ERISA to make it possible for a larger proportion of workers to benefit from a private pension plan and to remove some of the barriers women face in receiving benefits as both workers and as spouses. REA generally became effective January 1, 1985, but in some cases the effective date was as late as January 1, 1987.

The Department of Labor and the Internal Revenue Service share the responsibility for administration of the law. The pension plan termination insurance program is administered by the Pension Benefit Guaranty Corporation.

Participation. With some exceptions, a pension plan that bases eligibility for participation on age and service cannot deny or postpone participation on those grounds beyond the time the employee reaches age 21 and completes 1 year of service. However, all service from age 18 must be counted toward vesting. One year of service is defined as a 12-month period during which the employee has at least 1,000 hours of service, although there are exceptions for some industries. Employees cannot be denied participation in a defined contribution plan because they began employment late in life, but can be excluded from a defined benefit plan if they are within 5 years of the plan's normal retirement age. As a result of 1986 changes in the law, for plan years beginning after December 31, 1987, noncollectively bargained plans no longer will be able to exclude from participation employees who start working within 5 years of a plan's normal retirement age. In addition, employers will be required to continue making plan contributions to employees who work beyond normal retirement age.

Vesting. Accumulated benefits are "vested" when employees have a nonforfeitable right to receive benefits at retirement, even if they should leave the job before retirement age. Benefits may be partially or fully vested.

Accumulated benefits from the employee's own contributions, if any, must be fully and immediately vested. In order to preserve an employee's right to accumulate benefits contributed by an employer if the employee leaves the job before retiring, ERISA requires that accrued benefits be vested at least as fast as provided under one of the three vesting schedules.

1986 amendments to ERISA provide two alternate vesting schedules: (1) 100 percent vested after completion of 5 years of service; or (2) 20 percent vested after 3 years of service, 40 percent vested after 4 years, 60 percent after 5 years, 80 percent after 6 years, and 100 percent vested at the end of 7 years of service. Participants in multiemployer plans must be fully vested after no more than 10 years of service. The 1986 amendments apply to plan years beginning after December 31, 1988. Prior to that date, ERISA requires that benefits be vested at least as fast as one of three originally approved schedules. The most widely used of these schedules provides full vesting after 10 years of service and no vesting before then. Periods of service may be disregarded for vesting purposes under certain circumstances. ERISA has limited the circumstances in which interruption in employment results in the loss of pension benefits accrued before the interruption. Plans cannot penalize participants for breaks in service that are shorter than 1 year. Since a break in service can have very serious consequences, you should carefully examine your plan's "hour of service," "year of service," and "break in service" rules so that you do not inadvertently and unnecessarily lose the pension benefits you have accrued. Remember, these are minimum standards only. Plans can be more liberal than ERISA requires. REA provides that an employee may take up to five continuous 1-year breaks in service and sometimes longer without loss of benefits. In addition REA provides for up to 501 hours of credit toward a year of service for employees who are absent from work for maternity, paternity, or child rearing purposes including the care of an adopted child.

A few plans permit a worker to change jobs after having acquired a vested right to retirement benefits and have the benefits transferred from the pension funds of one employer to that of another. If a person receives a lump sum payout of vested benefits because of leaving before retirement or because the plan is terminated, current taxes can be avoided by depositing the funds in an IRA. (For more information on IRA's, see the "Personal Plans" section.)

Survivor Protection. All pension plans are required to provide that participants benefits through an annuity upon retirement (that is, an income for a specified period of time or for life). It must also provide

for a "joint and survivor annuity," unless the participant and his/her spouse elect in writing to give it up. A joint and survivor annuity supports the survivor(s) in the event of death of either the husband or wife. The amount of the plan participant's annuity may be reduced to make a reasonable adjustment for providing the survivor annuity, but the amount of the annuity paid to the spouse must be at least one-half of the annuity paid to the participant while both were living.

Under REA, all married participants with vested benefits must be provided with a preretirement survivor annuity which would provide benefits to the surviving spouse if the participant dies before retirement. The preretirement annuity and the joint and survivor annuity may be waived only with the consent of the participant's spouse. For a nonparticipant spouse to be eligible for survivor benefits, a plan can require only that she or he and the participant be married for a 1-year period ending on the earlier of (1) the starting date of the participant's annuity or (2) the date of the participant's death.

Benefits for Divorced Spouses. Under REA the plan administrator must honor a court order entered after January 1, 1985, directing the plan to pay part or all of the participant's benefits to the participant's former spouse for child support, alimony, or in settlement of marital property rights.

Integration with Social Security. ERISA permits plan administrators to offset the pension benefit paid by the amount of social security benefit the retiree receives. The 1986 tax law requires that "integration" formulas be changed so that a retiree will lose no more than half his/her pension benefit derived from employer contributions by integration of the pension plan with social security benefits.

Right to Information. ERISA requires administrators of plans covered by the law to furnish participants and beneficiaries summary descriptions of what the plans provide and how they operate. The summary plan description must be written in a manner to be understood by the average participant and must be accurate and sufficiently comprehensive to reasonably advise the participant of his or her rights and obligations.

Participants are also entitled to receive a summary of the annual financial report and upon written request (but not more than once in a 12-month period) a statement indicating total benefits accumulated and the nonforfeitable benefits, if any, accumulated, or the earliest date on which the benefits will become nonforfeitable.

For more information about rights of pension plan participants nder ERISA and about protection in the event of plan termination, ontact the Pension and Welfare Benefits Administration of the U.S.

Department of Labor and the Pension Benefit Guaranty Corporation. Addresses are listed in Appendix A.

Personal Plans

Since 1981 the Federal income tax laws have encouraged individuals to set up personal retirement plans by allowing tax advantages for plans established according to IRS regulations. Contributions to these plans, which are subject to specific legal requirements, may be fully or partially deducted from income for tax purposes, and the income earned on the contributions will be exempt from taxes until the money is withdrawn from the account. There are two types of personal plans—individual retirement accounts (IRA's) which any employed person may establish, and Keogh, or HR-10 plans, which are designed for self-employed persons and their employees.

Beginning in 1987, the new tax law will continue to permit workers to deduct from taxable income some or all amounts put into special IRA's. However, the new law places restrictions on deductions claimed by high earners who participate in company sponsored plans. All of the earnings accumulated on these special accounts are tax free until the earnings are withdrawn, usually after retirement, when the individual is likely to be in a lower tax bracket. Contributions to IRA's on which no income tax has been paid are also taxed after withdrawal. There is a penalty for withdrawing funds before age 59½ except for disabled workers. The maximum amount that an employee can elect to defer for any taxable year under all cash or deferred arrangements is limited to $7,000 indexed to inflation in 1988.

The new tax law also permits employees to contribute to *simplified employee pension* plans known as SEPs. Employers with less than 25 employees may establish an SEP which is like an IRA. Employees may now annually put as much as $7,000 of their pretax pay into their SEP account.

Keogh or HR-10 plans permit self-employed individuals to put a portion of their earnings each year tax free into a fund that can earn tax free income until it starts paying out at retirement. Keogh plans are subject to strict standards and regulations administered by the Internal Revenue Service. For information about tax saving retirement plans, contact the nearest IRS office listed in the telephone directory under "United States Government, Internal Revenue Service."

Appendix A

Sources of Assistance

FEDERAL AGENCIES

National Offices

U.S. Equal Employment Opportunity Commission
Washington, D.C. 20507
(See also list of field offices following.)

Civil Rights Division
U.S. Department of Health and Human Services
Washington, D.C. 20201

Social Security Administration
U.S. Department of Health and Human Services
Baltimore, Maryland 21235

Internal Revenue Service
U.S. Department of the Treasury
Washington, D.C. 20224

Office of Revenue Sharing
U.S. Department of the Treasury
Washington, D.C. 20226

Federal Trade Commission
Washington, D.C. 20580

Pension Benefit Guaranty Corp.
2020 K Street, NW.
Washington, D.C. 20006

Office of Labor Management Standards
U.S. Department of Labor
Washington, D.C. 20210

Office of Pension and Welfare
Benefit Programs
U.S. Department of Labor
Washington, D.C. 20210

Occupational Safety and Health Administration
U.S. Department of Labor
Washington, D.C. 20210

Office of Federal Contract Compliance Programs
Employment Standards Administration
U.S. Department of Labor
Washington, D.C. 20210
(See also list of regional offices following.)

Office of Workers' Compensation Programs
Employment Standards Administration
U.S. Department of Labor
Washington, D.C. 20210

Women's Bureau
Office of the Secretary
U.S. Department of Labor
Washington, D.C. 20210

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, D.C. 20210
(See also list of field offices following.)

Office of Federal Contract Compliance Programs (OFCC Regional, Area, and Field Offices

Addresses and telephone numbers for area or field offices are listed in the telephone directory under "United States Department of Labor"

Boston: U. S. Department of Labor, JFK Building, Room 1612–C, Government Center, Massachusetts 02203. *Bridgeport, Hartford.*

New York: U. S. Department of Labor, 1515 Broadway, Room 3308, New York 10036. *Buffalo, Garden City, Hato Rey, Newark, Trenton.*

Philadelphia: U. S. Department of Labor, Gateway Building, Room 1310, 3535 Market Street, Pennsylvania 19104. *Baltimore, Pittsburgh, Richmond, Washington.*

Atlanta: U. S. Department of Labor, 1371 Peachtree Street, NE., Room 111, Georgia 30367. *Birmingham, Charlotte, Columbia, Jackson, Jacksonville, Louisville, Memphis, Miami, Nashville, Orlando, Raleigh.*

Chicago: U. S. Department of Labor, New Federal Building, Room 570B, 230 South Dearborn Street, Illinois 60604. *Cleveland, Columbus, Detroit, Grand Rapids, Indianapolis, Milwaukee, Minneapolis.*

Dallas: U. S. Department of Labor, 525 Griffin Street, Federal Building, Room 840, Texas 75202. *Houston, New Orleans, San Antonio, Tulsa.*

Kansas City: U. S. Department of Labor, Federal Office Building, Room 2011, 911 Walnut Street, Missouri 64106. *St. Louis, Omaha.*

Denver: U. S. Department of Labor, 1412 Federal Office Building, 1961 Stout Street, Colorado 80294. *Salt Lake City.*

San Francisco: U. S. Department of Labor, 450 Golden Gate Avenue, Room 9418, California 94102. *Los Angeles, Oakland, San Jose, Van Nuys.*

Seattle: U. S. Department of Labor, Federal Office Building, 909 First Avenue, Room 3048, Washington 98174. *Portland.*

Equal Employment Opportunity Commission (EEOC)
800 USA-EEOC

Wage and Hour Division

Inquiries about laws administered by the Wage and Hour Division, U.S. Department of Labor, should be addressed to the nearest office. Consult the list below, or your local telephone directory under U.S. Government Department of Labor.

Alabama: Birmingham, Montgomery

Arizona: Phoenix

Arkansas: Little Rock

California: Glendale, Sacramento, San Francisco, Santa Ana

Colorado: Denver

Connecticut: Hartford

Florida: Fort Lauderdale, Jacksonville, Miami, Tampa

Georgia: Atlanta, Savannah

Illinois: Chicago, Springfield

Indiana: Indianapolis, South Bend

Iowa: Des Moines

Kentucky: Louisville

Louisiana: New Orleans

Maine: Portland

Maryland: Baltimore

Massachusetts: Boston

Michigan: Grand Rapids

Minnesota: Minneapolis

Mississippi: Jackson

Missouri: Kansas City, St. Louis

Nebraska: Omaha

New Jersey: Newark, Trenton

New Mexico: Albuquerque

New York: Albany, Bronx, Buffalo, Hempstead, New York

North Carolina: Charlotte, Raleigh

Ohio: Cincinnati, Cleveland, Columbus

Oklahoma: Tulsa

Oregon: Portland

Pennsylvania: Philadelphia, Pittsburgh, Wilkes-Barre

Puerto Rico: Hato Rey

Rhode Island: Providence

South Carolina: Columbia

Tennessee: Knoxville, Nashville

Texas: Dallas, Houston, San Antonio

Utah: Salt Lake City

Virginia: Richmond

Washington: Seattle

West Virginia: Charleston

Wisconsin: Madison, Milwaukee

Appendix B

State Agencies

Labor Departments and Human Rights Commissions

Alabama: Department of Industrial Relations, Industrial Relations Building, Montgomery, 36130.

Alaska: Department of Labor, P. O. Box 1149, Juneau, 99802. Alaska State Commission for Human Rights, 800 "A" Street, Suite 202, Anchorage, 99501.

Arizona: Department of Labor, 800 W. Washington Ave., P. O. Box 19070, Phoenix, 85005. Arizona Civil Rights Division, 1275 W. Washington, Phoenix, 85007.

Arkansas: Department of Labor, 1022 High Street, Little Rock, 72202.

California: Department of Industrial Relations, 525 Golden Gate Avenue, P. O. Box 603, San Francisco, 94101. Department of Fair Employment and Housing, 1201 I Street, Sacramento, 95814.

Colorado: Department of Labor and Employment, 251 East 12th Avenue, Denver, 80203. Colorado Civil Rights Commission, 1525 Sherman, Room 600C, Denver, 80203.

Connecticut: Labor Department, 200 Folly Brook Boulevard, Wethersfield, 06109. Commission on Human Rights and Opportunities, 90 Washington Street, Hartford, 06106.

Delaware: Department of Labor, 820 N. French Street, Wilmington, 19801 (Includes Anti-Discrimination Section.)

District of Columbia: D. C. Department of Employment Services, 500 C Street, NW., Washington, D. C. 20001. Commission on Human Rights, District Building, Washington, D. C. 20004.

Florida: Department of Labor and Employment Security, Berkeley Building, 2590 Executive Center Circle East, Tallahassee, 32301. Commission on Human Relations, 325 John Knox Road, Suite 240, Bldg. F, Tallahassee, 32303.

Georgia: Department of Labor, State Labor Building, 254 Washington Street, SW., Atlanta, 30334.

Guam: Department of Labor, Government of Guam, Box 23548, GMF, Guam, M. I. 96921.

Hawaii: Department of Labor and Industrial Relations, 830 Punchbowl Street, Honolulu, 96813. Department of Labor and Industrial Relations, Labor Law Enforcement (for discrimination complaints), 888 Mililani Street, Room 401, Honolulu, 96813.

Idaho: Department of Labor and Industrial Services, Room 400, Statehouse Mail, 317 Main Street, Boise, 83720. Commission on Human Rights, 450 W. State, 1st Floor, Boise, 83720.

Illinois: Department of Labor, 1 West Old Capitol Plaza, Springfield, 62701–1217. Department of Human Rights, 100 West Randolph Street, Chicago, 60601.

Indiana: Department of Labor, Room 1013, State Office Building, 100 N. Senate Avenue, Indianapolis, 46204. Civil Rights Commission, 32 West Washington Street, Indianapolis, 46204–3526.

Iowa: Division of Labor, 1000 East Grand Avenue, Des Moines, 50319. Civil Rights Commission, 211 East Maple Street, c/o State Mailroom, Des Moines, 50319.

Kansas: Department of Human Resources, 401 Topeka Avenue, Topeka, 66603. Commission on Civil Rights, 214 Southwest 6th Street, Liberty Bldg., 5th Floor, Topeka, 66603.

Kentucky: Labor Cabinet, U.S. 127 South Building, Frankfort, 40601. Commission on Human Rights, 832 Capitol Plaza Tower, Frankfort, 40601.

Louisiana: Department of Labor, 1045 State Land and Natural Resources Building, P. O. Box 44094, Baton Rouge, 70804.

Maine: Department of Labor, 20 Union Street, Augusta 04330. Human Rights Commission, State House—Station 51, Augusta, 04333.

Maryland: Division of Labor and Industry, 501 St. Paul Place, Baltimore, 21202. Commission on Human Relations, 20 East Franklin Street, Baltimore, 21202.

Massachusetts: Department of Labor and Industries, State Office Building, 100 Cambridge Street, Boston, 02202. Commission Against Discrimination, 1 Ashburton Place, Suite 601, Boston, 02108.

Michigan: Department of Labor, Leonard Plaza Building, 309 N. Washington, P. O. Box 30015, Lansing, 48909. Department of Civil Rights, 303 W. Kalamazoo, Lansing, 48913.

Minnesota: Department of Labor and Industry, 444 Lafayette Road, St. Paul, 55101. Department of Human Rights, 5th Floor Bremer Tower, 7th Place and Minnesota Street, St. Paul, 55101.

Mississippi: Workmen's Compensation Commission, P. O. Box 5300, Jackson, 39216.

Missouri: Department of Labor and Industrial Relations, 1904 Missouri Boulevard, P. O. Box 599, Jefferson City, 65102. Commission on Human Rights, 315 Ellis Blvd., P. O. Box 1129, Jefferson City, 65102–1129.

Montana: Department of Labor and Industry, P. O. Box 1728, Helena, 59624. Human Rights Commission, 1236 6th Avenue, P. O. Box 1728, Helena, 59624.

Nebraska: Department of Labor, 550 S. 16th Street, Box 94600, State House Station, Lincoln, 68509. Equal Opportunity Commission, 301 Centennial Mall, South, P. O. Box 94934, Lincoln, 68509-4934.

Nevada: Labor Commission, 505 East King Street, Room 602, Carson City, 89710. Equal Rights Commission, 1515 E. Tropicana, Las Vegas, 89158.

New Hampshire: Department of Labor, 19 Pillsbury Street, Concord, 03301. Commission for Human Rights, 61 South Spring Street, Concord, 03301.

New Jersey: Department of Labor, P. O. Box CN 110, Trenton, 08625. Division on Civil Rights, 1100 Raymond Boulevard, Newark, 07102.

New Mexico: Labor Department, P. O. Box 1928, Albuquerque, 87103. Human Rights Commission, 930 Baca Street, Suite A, Santa Fe, 87501.

New York: Department of Labor, State Campus Building 12, Albany, 12240. Division of Human Rights, 55 West 125 Street, New York, 10047.

North Carolina: Department of Labor, Labor Building, 214 West Jones Street, Raleigh, 27603.

North Dakota: Department of Labor, State Capitol, 5th Floor, Bismarck, 58505.

Ohio: Department of Industrial Relations, 2323 W. 5th Avenue, Columbus, 43215. Civil Rights Commission, 220 Parsons Avenue, Columbus, 43215.

Oklahoma: Department of Labor, 1315 N. Broadway Place, Oklahoma City, 73103-4817. Human Rights Commission, Room G11, Jim Thorpe Building, 2101 North Lincoln Blvd., Oklahoma City, 73105.

Oregon: Bureau of Labor and Industries, State Office Building, 1400 SW. Fifth, Portland, 97201. (Includes Civil Rights Division.)

Pennsylvania: Department of Labor and Industry, 1700 Labor and Industry Building, 7th & Forster Streets, Harrisburg, 17120. Human Relations Commission, 101 South Second Street, Suite 300, P. O. Box 3145, Harrisburg, 17105.

Puerto Rico: Department of Labor and Human Resources, 505 Munoz Rivera Avenue, G.P.O. Box 3088, Hato Rey, 00918. (Includes Anti-Discrimination Unit.)

Rhode Island: Department of Labor, 220 Elmwood Avenue, Providence, 02907. Commission for Human Rights, 10 Abbott Park Place, Providence, 02903-3768.

South Carolina: Department of Labor, 3600 Forest Drive, P. O. Box 11329, Columbia, 29211. Human Affairs Commission, Post Office Drawer 11300, Columbia, 29211.

South Dakota: Department of Labor, 700 Governors Drive, Pierre, 57501. Division of Human Rights, Pierre, 57501–5070.

Tennessee: Department of Labor, 501 Union Building, Nashville, 37219. Commission for Human Development, 208 Tennessee Building, 535 Church Street, Nashville, 37219.

Texas: Department of Labor and Standards, P. O. Box 12157, Capitol Station, Austin, 78711. Commission on Human Rights, P. O. Box 13493, Capitol Station, Austin, 78711.

Utah: Industrial Commission, 160 East 300 South, P. O. Box 5800, Salt Lake City, 84110–5800. Anti-Discrimination Division, 160 East 300 South, P. O. Box 5800, Salt Lake City, 84111–5800.

Vermont: Department of Labor and Industry, State Office Building, Montpelier, 05602.

Virginia: Department of Labor and Industry, P. O. Box 12064, Richmond, 23241. Human Rights Council, c/o Office of the Secretary of Administration, P. O. Box 1475, Richmond, 23212.

Virgin Islands: Department of Labor, P. O. Box 890, Christiansted, St. Croix, 00820.

Washington: Department of Labor and Industries, General Administration Building, Olympia, 98504. Human Rights Commission, 402 Evergreen Plaza Building, FJ–41, Olympia, 98504–3341.

West Virginia: Department of Labor, Capitol Complex, 1800 Washington Street, East, Charleston, 25305. Human Rights Commission, 215 Professional Building, 1036 Quarrier Street, Charleston, 25301.

Wisconsin: Department of Industry, Labor and Human Relations, 201 East Washington Avenue, P. O. Box 7946, Madison, 53707. Equal Rights Division, P. O. Box 8928, Madison, 53708.

Wyoming: Department of Labor and Statistics, Herschler Building, Cheyenne, 82002. Fair Employment Commission, Herschler Building, 2nd Floor East Wing, Cheyenne, 82002.

Appendix C

SAMPLE COMPLAINT FORMS

Form Approved
Budget Bureau No. 44 R0304

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION

EMPLOYMENT INFORMATION FORM

This report is authorized by Section 11 of the Fair Labor Standards Act. While you are not required to respond, submission of this information is necessary for the Division to schedule any compliance action. Your identity will be kept confidential to the maximum extent possible under existing law.

1. PERSON SUBMITTING INFORMATION

A. Name (Print first name, middle initial, and last name)
Mr.
Miss
Mrs.
Ms.

B. Date

C. Telephone number: (Or No. where you can be reached)

D. Address: (Number, Street, Apt. No.)

(City, County, State, ZIP Code)

E. Check one of these boxes
☐ Present employee of establishment ☐ Former employee of establishment ☐ Other ________ (Specify: relative, union, etc)

2. ESTABLISHMENT INFORMATION

A. Name of establishment

B. Telephone Number

C. Address of establishment: (Number, Street)

(City, County, State, ZIP Code)

D. Estimate number of employees

E. Does the firm have branches? ☐ Yes ☐ No ☐ Don't know
If "Yes", name one or two locations: ________

F. Nature of establishment's business: (For example; school, farm, hospital, hotel, restaurant, shoe store, wholesale drugs, manufactures stoves, coal mine, construction, trucking, etc.)

G. If the establishment has a Federal Government or federally assisted contract, check the appropriate box(es).
☐ Furnishes goods ☐ Furnishes services ☐ Performs construction

H. Does establishment ship goods to or receive goods from other States?
☐ Yes ☐ No ☐ Don't know

3. EMPLOYMENT INFORMATION
(Complete A, B, C, D, E, & F if present or former employee of establishment; otherwise complete F only)

A. Period employed (month, year)
From: ________
To: ________ (If still there, state present)

B. Date of birth if under 19
Month ________ Day ________ Year ________

C. Give your job title and describe briefly the kind of work you do

(Continue on other side)

Form WH-3 (Rev. Oct. 1980)

D Method of payment

$________ per ________________
(Rate) (Hour, week, month, etc.)

E. Enter in the boxes below the hours you usually work each day and each week (less time off for meals)

M	T	W	T	F	S	S	TOTAL

F CHECK THE APPROPRIATE BOX(ES) AND EXPLAIN BRIEFLY IN THE SPACE BELOW the employment practices which you believe violate the Wage and Hour laws. (If you need more space use an additional sheet of paper and attach it to this form.)

- ☐ Does not pay the minimum wage
- ☐ Does not pay proper overtime
- ☐ Does not pay prevailing wage determination for Federal Government or federally assisted contract

Approximate date of alleged discrimination

____

- ☐ Discharged employee because of wage garnishment (explain below)
- ☐ Excessive deduction from wages because of wage garnishment (explain below)
- ☐ Employs minors under minimum age for job
- ☐ Other (explain below)

(NOTE: If you think it would be difficult for us to locate the establishment or where you live, give directions or attach map.)

COMPLAINT TAKEN BY:

NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended, states:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title

Persons filing charges of employment discrimination are advised of this Non-Retaliation Requirement and are instructed to notify the Equal Employment Opportunity Commission if any attempt at retaliation is made.

PRIVACY ACT STATEMENT

(This form is covered by the Privacy Act of 1974, Public Law 93-579. Authority for requesting and uses of personal data are given below.)

1. FORM NUMBER/TITLE/DATE
   EEOC Form 5C, Charge of Discrimination, March 79.

2. AUTHORITY
   42 USC2000e 6(b)

3. PRINCIPAL PURPOSE(S) The purpose of the charge, whether recorded initially on Form 5C or abstracted from a letter, is to invoke the Commission's jurisdiction.

4. ROUTINE USES. Information provided on this form will be used by Commission employees to determine the existence of facts relevant to a decision as to whether the Commission has jurisdiction over potential charges, and to provide such pre-charge filing counseling as is appropriate.

   Other uses may include the following: (1) to conduct compliance reviews with State, local and Federal agencies, such as the Office of Federal Contract Compliance Programs, Department of Justice, Department of Labor, and other Federal agencies as may be appropriate or necessary to carrying out the Commission's functions; (2) disclosure to State and local agencies administering State or local fair employment practices laws; (3) disclosure to the following person(s) in contemplation of or in connection with Title VII litigation: (a) charging parties and their attorneys; (b) aggrieved persons in cases involving Commissioner charges and their attorneys; (c) persons or organizations filing on behalf of an aggrieved person, provided that the aggrieved person has given written authorization to the person who filed on his or her behalf to act as the aggrieved person's agent for this purpose, and their attorneys; (d) employees of Commission-funded groups, such as the Mexican-American Legal Defense and Education Fund and and Lawyer's Committee for Civil Rights under Law for the purpose of reviewing information in case files to determine the appropriateness of referral to private attorneys as a service to charging parties, provided that the Commission-funded group is reviewing this information at your request; (e) respondents and their attorneys, provided that you have filed suit under Title VII against that respondent; and (f) persons who have filed, or are contemplating filing a Title VII suit against the same respondent you have named in your charge, provided that information about you and your charge is relevant and material to that person's case; (4) disclosure of the status of the processing of a charge of employment discrimination may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

5. Charges must be in writing and identify the parties and action or policy complained of. Failure to comply may result in the Commission not accepting the charge. Charges must be sworn to or affirmed but may be cured later by amendment. It is not mandatory that this form be used to provide the requested information.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; see Privacy Act Statement on reverse before completing this form.

ENTER CHARGE NUMBER
☐ FEPA
☐ EEOC

______________________________________ and EEOC
(State or local Agency, if any)

NAME (Indicate Mr., Ms., or Mrs.)		HOME TELEPHONE NO. (Include Area Code)
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME *(If more than one list below.)*

NAME	NO. OF EMPLOYEES/MEMBERS	TELEPHONE NUMBER (Include Area Code)
STREET ADDRESS	CITY, STATE AND ZIP CODE	
NAME		TELEPHONE NUMBER (Include Area Code)
STREET ADDRESS	CITY, STATE AND ZIP CODE	

CAUSE OF DISCRIMINATION BASED ON *(Check appropriate box(es))*
☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ AGE ☐ RETALIATION ☐ OTHER *(Specify)*

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, year)*

THE PARTICULARS ARE *(If additional space is needed, attached extra sheet(s)):*

☐ I also want this charge filed with the EEOC.
I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

Date Charging Party *(Signature)*

EEOC FORM 5 MAR 84 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE AND MUST NOT BE USED

FILE COPY

PRIVACY ACT STATEMENT

(This form is covered by the Privacy Act of 1974, Public Law 93-579: Authority for requesting the personal data and the uses are given below.)

1. FORM NUMBER/TITLE/DATE. EEOC Form 5, CHARGE OF DISCRIMINATION, March 1984.

2. AUTHORITY. 42 U.S.C.§ 2000e-5(b), 29 U.S.C. §211, 29 U.S.C.§ 626.

3. PRINCIPAL PURPOSE(S). The purpose of the charge, whether recorded initially on this form or in some other way reduced to writing and later recorded on this form, is to invoke the jurisdiction of the Commission.

4. ROUTINE USES. This form is used to determine the existence of facts which fall within the Commission's jurisdiction to investigate, determine, conciliate and litigate charges of unlawful employment practices. Information provided on this form will be used by Commission employees to guide the Commission's investigatory activities. This form may be disclosed to other State, local and federal agencies as may be appropriate or necessary to carrying out the Commission's functions. A copy of this charge will ordinarily be served upon the person against whom the charge is made.

5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. Charges must be in writing and should identify the parties and action or policy complained of. Failure to have a charge which identifies the parties in writing may result in the Commission not accepting the charge. Charges under Title VII must be sworn to or affirmed. Charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to provide the requested information.

6. [ ] Under Section 706 of Title VII of the Civil Rights Act of 1964, as amended, this charge will be deferred to and will be processed by the State or local agency indicated. Upon completion of the agency's processing, you will be notified of its final resolution in your case. If you wish EEOC to give Substantial Weight Review to the agency's findings you must send us a request to do so, in writing, within fifteen (15) days of your receipt of the agency's finding. Otherwise, we will adopt the agency's finding as EEOC's and close your case.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of the Civil Rights Act of 1964, as amended, and Section 4(d) of the Age Discrimination in Employment Act of 1967, as amended, state:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed a practice made an unlawful employment practice by this title or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

The Equal Pay Act of 1963 contains similar provisions. Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

REQUEST FOR HEALTH HAZARD EVALUATION

This form is provided to assist in registering a request for a health hazard evaluation with the U.S. Department of Health and Human Services as provided In Section 20(a)(6) of the Occupational Safety and Health Act of 1970 and 42 CFR Part 85. (See Statement of Authority on Reverse Side.)

Establishment Where Possible Hazard/Problem Exists ____________________

Address
Street ____________________ Telephone __________
City ____________________ State __________ Zip Code __________

1. Specify the particular building or worksite where the possible hazard/problem is located.

____

2. Specify the name, title, and phone number of the employer's agent(s) in charge.

____

3. What Product or Service does the Establishment Produce?

____

4. Describe briefly the possible hazard/problem which exists by completing the following:

Identification of Toxic Substance(s) ____________________

Trade Name(s) (If Applicable) __________ Chemical Name(s) __________

____

____

Manufacturer(s) ____________________

Does the material have a warning label? ____Yes ____No. If yes; attach copy of label or a copy of the information contained on the label.

Physical Form of Substance(s): ☐ Dust ☐ Gas ☐ Liquid ☐ Mist ☐ Other

How are you exposed? ☐ Breathing ☐ Swallowing ☐ Skin Contact

Number of People Exposed __________ Length of Exposure (Hours/Day) __________

Occupations of Exposed Employees ____________________

____

5. Using the space below describe further the nature of the conditions or circumstances which prompted this request and other relevant aspects which you may consider important, such as the nature of the illness or symptoms of exposure, the concern for the potentially toxic effects of a new chemical substance introduced into the workplace, etc. __________

____

____

____

OMB No. 0920-0102,
Expires 7/31/89

6. (a) To your knowledge has this substance been considered previously by any Government agency? _______ (b) If so, gove the name and address of each. ____________

____

____

(c) and, the approximate date it was so considered. ____________

7. (a) Is a similar request currently being filed with or under investigation by any other Government (State or Federal) agency? _______ (b) If so, give the name and address of each _____

____

8. Requester –
The undersigned Requester believes that a substance (or substances) normally found in the place of employment may have potentially toxic effects in the concentrations used or found.

Signature ______________________ Date ____________

Typed or Printed Name ______________________ Phone: Home– ____________

Address Street ______________________ Business– ____________

City ____________ State ____________ Zip Code ____________

Check One:

☐ I am an Employer Representative

☐ I am an Authorized Representative of, or an officer of the organization representing the employees for purposes of collective bargaining. State the name and address of your organization. ______________________

____

☐ I am an employee of the employer and an Authorized Representative of two or more employees in the workplace where the substance is normally found. Signatures of authorizing employees are below:

Name ______________________ Phone ____________

Name ______________________ Phone ____________

☐ I am one of three or less employees in the workplace where the substance is normally found.

Please indicate your desire: ☐ I do not want my name revealed to the employer.
☐ My name may be revealed to the employer.

Authority:
Section 20(a)(6) of the Occupational Safety and Health Act, (29 U. S. C. 669(a)(6)) provides as follows: The Secretary of Health and Human Services shall . . . determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health and Human Services determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health and Human Services shall immediately submit such determination to the Secretary of Labor, together with all pertinent criteria.

For further information:
Telephone: AC 513-841-4382

Send the completed form to.
National Institute for Occupational Safety and Health
Hazard Evaluation and Technical Assistance Branch
4676 Columbia Parkway
Cincinnati, Ohio 45226

*U.S. G.P.O. 1988-194-188:80526